# EXHIBIT A

# SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

This Settlement Agreement and Release of Claims ("Agreement") is made and entered into by and between Aaron Daniels and Robert Szwaja, individually and on behalf of a collective class of 166 loan officers (collectively, "Plaintiffs"), on the one hand, and Frank Fiore ("Fiore"), on the other hand (together, the "Parties"), on the following terms and conditions:

## RECITALS

WHEREAS, Plaintiffs worked for Premium Capital Funding, LLC d/b/a Top Dot Mortgage ("Top Dot") and alleged they were owed unpaid minimum wages, overtime compensation, and other damages by Top Dot and its principals, David Brown and Fiore; and

WHEREAS, on or about November 20, 2008, Plaintiffs filed a lawsuit in the United States District Court for the Eastern District of New York against Top Dot, David Brown and Fiore for violation of the Fair Labor Standards Act, the New York Wage and Hour Law, the New York Labor Articles 6 and 19, and the New York Codes Rules and Regulations § 138-2.1, *et seq.*, proceeding under case number 08 CV 4736 (the "Litigation"); and

WHEREAS, Plaintiffs obtained judgment against Top Dot, David Brown and Fiore, jointly and severally, in the Litigation on or about September 19, 2011, entered by the Honorable Leonard D. Wexler, United States District Judge for the Eastern District of New York, in the amount of $9,007,160.00 plus attorneys fees and costs to be determined by the Court (the "Judgment"); and

WHEREAS, on or about February 17, 2016, Fiore filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code, which is currently pending in the United States Bankruptcy Court for the Eastern District of New York ("Bankruptcy Court") under case number 16-70610 (AST); and

WHEREAS, on or about March 29, 2016, Plaintiffs filed a Proof of Claim with the Bankruptcy Court for the amount of the Judgment owed by Fiore, plus post-judgment interest in the amount of $39,823.90; and

WHEREAS, on December 14, 2016, the Parties participated in arm's length settlement discussions and mediation supervised by Richard P. Byrne of National Arbitration and Mediation, and as a result of these settlement discussions and mediation, have agreed to settle the issues, matters and things in dispute between and among them pursuant to the terms of this Agreement; and

WHEREAS, the Parties desire to avoid further litigation and controversy and to fully and finally settle and compromise any and all claims and issues of law or fact that were raised or could have been raised by the Parties herein in the Litigation or otherwise; and

WHEREAS, the Parties agree the settlement shall not impact any of Plaintiffs' pending claims or judgment against David Brown;

NOW THEREFORE, in consideration of the foregoing and recognition of the mutual covenants contained herein, and other good and valuable consideration, the Parties hereby agree as follows:

TERMS AND CONDITIONS

1. Recitals. The Parties adopt and incorporate each of the foregoing recitals as paragraph 1.

2. Representations and Warranties. The Parties represent and warrant to each other that:

a. Plaintiffs have the legal capacity and authority to compromise and release all claims that have been raised or asserted by them herein with regard to the Litigation;

b. Each has the legal capacity and authority to enter into and perform all of the terms of this Agreement, which constitute the voluntary, legal, valid and binding obligation of said Party;

c. There has not been an assignment or transfer by operation of law of any claim or part thereof that Plaintiffs have against Fiore;

d. Each has read this Agreement, understands this Agreement, and intends to be legally bound by this Agreement;

e. The signator on behalf of each has the legal capacity and authority to execute and deliver this Agreement on behalf of the Parties and to bind each, respectively, hereunder.

3. Settlement Payment. Fiore agrees to settle Plaintiffs claims for a Total Settlement Amount of Six Hundred Seventy Five Thousand Dollars and 00/100 ($675,000.00) ("Total Settlement Amount"), to be paid as follows:

a. Within thirty (30) days of the approval of this Agreement by the Bankruptcy Court or within 30 days of the order of confirmation, whichever is latter, Fiore shall deposit the lump sum amount of Two Hundred Twenty Five Thousand Dollars and 00/100 ($225,000.00) with the Settlement Administrator designated by Plaintiffs.

b. Starting 30 days after the payment of $225,000 in paragraph 3(a), Fiore shall make ninety (90) consecutive monthly payments of Five Thousand Dollars and 00/100 ($5,000.00) each to satisfy the remainder of the Total Settlement Payment. There shall be no penalty for pre-payment of the Total Settlement Amount. Upon full payment of the Total Settlement Amount, Plaintiffs will provide Fiore with a satisfaction of judgment in recordable form and a full release of liability as to the judgment entered against Fiore in the Litigation.

4.

5. Settlement Allocation to Plaintiffs. Payments to Plaintiffs and the Settlement Class Members shall be made in annual installments by the Settlement Administrator. The individual settlement payments to Plaintiffs shall be allocated so that 1/2 shall be treated as back wages (from which the Settlement Administrator will withhold the appropriate taxes) and 1/2 will be treated as liquidated damages and interest.

6. Settlement Administration. The Settlement Administrator shall establish a Qualified Settlement Fund (QSF) pursuant to 26 CFR § 1.468-B-1 from which to make payments to the Plaintiffs, Plaintiffs' counsel, and taxing authorities from the Total Settlement Amount. The Settlement Administrator shall also be responsible for calculating tax matters, printing, postage, and distributing settlement awards by check. The Settlement Administrator will file the necessary tax returns, including the QSF federal, state and payroll tax returns. If a settlement check is returned as undeliverable with a forwarding address provided by the United States Postal Service, the Settlement Administrator will promptly resend the check to that forwarding address. If a settlement check is returned as undeliverable without a forwarding address, the Settlement Administrator will make reasonable efforts to locate forwarding addresses, and if it obtains a more recent address, will resend the settlement check to the Plaintiff. The checks for the Plaintiff settlement payments will become void and no longer available if not cashed within one hundred and eighty (180) calendar days after originally issued. The amounts represented by checks remaining uncashed after the 180-day deadline for any reason will be forwarded by the

Settlement Administrator to the agency responsible for handling unclaimed funds/property for the state in which the Plaintiff is last known to have resided.

7. Release of Claims. Except for the obligations set forth herein, Plaintiffs for themselves, and for their successors, assigns, heirs, legatees, beneficiaries, agents, attorneys, and representatives do hereby remise, release and forever discharge Fiore, his successors, assigns, beneficiaries, agents, and attorneys, of and from the Judgment, including any and all post-judgment interest, attorneys' fees and costs, and any other amounts which may become due, to the extent such additional components of Plaintiffs' claim are recoverable under applicable law. Notwithstanding Plaintiffs' release of claims, the Parties stipulate that liability for the payments set forth in this Agreement and for the Judgment shall be non-dischargable.

8. Non-dishargeability. The parties hereby agree that, pursuant to 11 U.S.C. § 523(a)(6), all sums due under this Agreement are not dischargeable in bankruptcy however, upon of the full payment of the settlement payment set forth in paragraph 3, the non-dischargeable debt shall be deemed satisfied.

9. Approval Procedure for Settlement Agreement. Within fourteen (14) calendar days after the Parties execute this Agreement, Fiore's counsel shall file a motion with the Bankruptcy Court seeking approval of the Agreement, including award of attorneys' fees and costs.

10. Dismissal of Adversary Proceeding. Upon approval of the Agreement by the Bankruptcy Court and within seven (7) days after the receipt of the initial lump sum Settlement Payment identified in paragraph 3(a) of this Agreement by the Settlement Administrator, Plaintiffs shall voluntarily dismiss their adversary proceeding against Fiore with prejudice and without costs to any Party, with each Party bearing its own fees and costs.

10. Interview of Fiore's Spouse. Fiore agrees that as a condition of this Agreement, his spouse will sit for an interview by Plaintiff's counsel in the office of Michael J. Macco, Macco and Stern, LLP, 2950 Express Drive South, Suite 109, Islandia, New York 11749. The interview shall be made prior to the hearing on the debtor's 9019 motion to approve this settlement.

11. Further Assurances. The Parties hereto agree to execute such other documents and to take such other action as may be reasonably necessary to further the purposes of this Agreement, and each Party agrees to approve and execute any documents reasonably related to the purposes of this Agreement promptly upon request of the other Party.

12. Default Procedures. In the event of a default by Fiore for failure to make any timely payment according the schedule set forth herein, Plaintiffs' counsel shall issue written notice to Fiore's counsel at the following address: Michael Macco, Macco & Stern, 2950 Express Drive South, Suite 109, Islandia, NY 11749. and to Frank Fiore at 3 Jill Court Greenlawn NY 11740 (M) The Notice shall state that Fiore is in default and that Fiore must cure the default within ten (10) business days of receipt of the Notice. If the default is not cured within this ten (10) day period, Fiore will be deemed to be in violation of this Agreement.

13. Dismissal of Chapter 11. In the event the Court grants Fiore's motion to dismiss this Chapter 11, the parties agree that this agreement shall survive the dismissal of the case.

14. Governing Law. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of New York.

15. Amendments and Waivers. This Agreement may not be modified, amended, or terminated except by an instrument in writing, signed by each of the Parties affected thereby. No failure to exercise and no delay in exercising any right, remedy, or power under this Agreement

shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, or power under this Agreement preclude any other or further exercise thereof, or the exercise of any other right, remedy, or power provided herein or by law or in equity.

16. Severability. If for any reason any provision of this Agreement is determined to be invalid or unenforceable, the remaining provisions of this Agreement nevertheless shall be construed, performed, and enforced as if the invalidated or unenforceable provision had not been included in the text of the Agreement.

17. Drafting. The drafting and negotiation of this Agreement have been participated in by each of the Parties, and for all purposes this Agreement shall be deemed to have been drafted jointly by each of the Parties.

18. Successor and Assigns. This Agreement shall inure to the benefit of and be binding upon the Parties herein and their respective heirs, personal representatives, successors and permitted assigns.

19. Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, representations, warranties, statements, promises, and understandings, whether oral or written. The use of headings in this Agreement is merely for convenience and shall have no legal effect, and such headings shall not be referred to in construing any provisions of this Agreement. None of the Parties hereto shall be bound by or charged with any oral or written agreements, representations, warranties, statements, promises or understandings with respect to the subject matter hereof, not specifically set forth or referred to in this Agreement.

20. Non-Reliance. The Parties agree and acknowledge that they have not relied on any further representation, either written or oral, by either Party concerning any matter relevant

to this Agreement in the making of this Agreement other than those expressly reflected herein, and that no such representations were in fact made other than the terms and conditions made and incorporated herein.

21. Separate Execution. This Agreement may be signed by each Party separately, in which case attachment of each Party's signature page to this Agreement shall constitute a fully-executed Agreement. Facsimile-copy or PDF signatures shall have the same effect as original signatures.

THE PARTIES HERETO ACKNOWLEDGE THAT THEY HAVE READ THIS SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS; THAT THEY HAVE DISCUSSED WITH THEIR ATTORNEY THIS SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS AND ITS TERMS AND PROVISIONS; THAT THEY FULLY KNOW, UNDERSTAND, AND APPRECIATE THE CONTENTS AND EFFECT OF THIS SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS; AND THAT THEY EXECUTE THIS SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS VOLUNTARILY AND OF THEIR OWN FREE WILL.

IN WITNESS WHEREOF, the undersigned Parties have executed this Agreement on the date identified below.

Plaintiff Aaron Daniels and Robert Szwaja, on behalf of themselves and all others similarly situated:

By: [signature]

Date: 1/29/17

By: ______________________

Date: ______________________

Debtor Frank Fiore:

By: ______________________

Date: ______________________

to this Agreement in the making of this Agreement other than those expressly reflected herein, and that no such representations were in fact made other than the terms and conditions made and incorporated herein.

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IN WITNESS WHEREOF, the undersigned Parties have executed this Agreement on the date identified below.

Plaintiff Aaron Daniels and Robert Szwaja, on behalf of themselves and all others similarly situated:

By: ____________________

Date: 1/30/17

By: ____________________

Date: ____________________

Debtor Frank Fiore:

By: ____________________

Date: 02/2/17